

**Introduced by Senator Ducheny**

February 17, 2005

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An act to amend Sections 65589.4 and 65589.7 of the Government Code, relating to housing.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 365, as introduced, Ducheny. Affordable housing.

(1) The Planning and Zoning Law requires that a multifamily residential housing project is a permitted use not subject to a conditional use permit on any parcel zoned for multifamily housing if specified requirements are satisfied. The Planning and Zoning Law also requires that each public agency or private entity that provides water services at retail or sewer services be granted a priority for the provision of available and future resources or services to proposed housing developments that help meet the city's, county's, or city and county's share of the regional housing need for lower income households as identified in the housing element adopted by the local legislative body and any amendments made to that element.

This bill would expressly make these provisions applicable to charter cities. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65589.4 of the Government Code is
- 2 amended to read:
- 3 65589.4. (a) A multifamily residential housing project shall
- 4 be a permitted use not subject to a conditional use permit on any
- 5 parcel zoned for multifamily housing if it satisfies the
- 6 requirements of subdivision (b) and either of the following:
- 7 (1) The project satisfies the criteria of Section 21159.22,
- 8 21159.23, or 21159.24 of the Public Resources Code.
- 9 (2) The project meets all of the following criteria:
- 10 (A) The project is subject to a discretionary decision other
- 11 than a conditional use permit and a negative declaration or
- 12 mitigated negative declaration has been adopted for the project
- 13 under the California Environmental Quality Act (Division 13
- 14 commencing with Section 21000) of the Public Resources
- 15 Code). If no public hearing is held with respect to the
- 16 discretionary decision, then the negative declaration or mitigated
- 17 negative declaration for the project may be adopted only after a
- 18 public hearing to receive comments on the negative declaration
- 19 or mitigated negative declaration.
- 20 (B) The project is consistent with both the jurisdiction's
- 21 zoning ordinance and general plan as it existed on the date the
- 22 application was deemed complete, except that a project shall not
- 23 be deemed to be inconsistent with the zoning designation for the
- 24 site if that zoning designation is inconsistent with the general
- 25 plan only because the project site has not been rezoned to
- 26 conform with a more recently adopted general plan.
- 27 (C) The project is located in an area that is covered by one of
- 28 the following documents that has been adopted by the
- 29 jurisdiction within five years of the date the application for the
- 30 project was deemed complete:
- 31 (i) A general plan.
- 32 (ii) A revision or update to the general plan that includes at
- 33 least the land use and circulation elements.
- 34 (iii) An applicable community plan.
- 35 (iv) An applicable specific plan.

1 (D) The project consists of not more than 100 residential units  
2 with a minimum density of not less than 12 units per acre.

3 (E) The project is located in an urbanized area as defined in  
4 Section 21071 of the Public Resources Code or within a  
5 census-defined place with population density of at least 5,000  
6 persons per square mile or, if the project consists of 50 or fewer  
7 units, within an incorporated city with a population density of at  
8 least 2,500 persons per square mile and a total population of at  
9 least 25,000 persons.

10 (F) The project is located on an infill site as defined in Section  
11 21061.0.5 of the Public Resources Code.

12 (b) At least 10 percent of the units of the project shall be  
13 available at affordable housing cost to very low income  
14 households, as defined in Section 50105 of the Health and Safety  
15 Code, or at least 20 percent of the units of the housing  
16 development shall be available at affordable housing cost to  
17 lower income households, as defined in Section 50079.5 of the  
18 Health and Safety Code, or at least 50 percent of the units of the  
19 housing development available at affordable housing cost to  
20 moderate-income households, consistent with Section 50052.5 of  
21 the Health and Safety Code. The developer of the project shall  
22 provide sufficient legal commitments to the local agency to  
23 ensure the continued availability and use of the housing units for  
24 very low, low-, or moderate-income households for a period of at  
25 least 30 years.

26 (c) Nothing in this section shall prohibit a local agency from  
27 applying design and site review standards in existence on the  
28 date the application was deemed complete.

29 (d) The provisions of this section are independent of any  
30 obligation of a jurisdiction pursuant to subdivision (c) of Section  
31 65583 to identify multifamily sites developable by right.

32 (e) This section does not apply to the issuance of coastal  
33 development permits pursuant to the California Coastal Act  
34 (Division 20 (commencing with Section 30000) of the Public  
35 Resources Code).

36 (f) *The Legislature finds and declares that this section shall be*  
37 *applicable to all cities and counties, including charter cities,*  
38 *because the Legislature finds that the lack of affordable housing*  
39 *is of vital statewide importance.*

SEC. 2. Section 65589.7 of the Government Code is amended to read:

65589.7. (a) The housing element adopted by the legislative body and any amendments made to that element shall be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body. When allocating or making plans for the allocation of available and future resources or services designated for residential use, each public agency or private entity providing water services at retail or sewer services, shall grant a priority for the provision of these available and future resources or services to proposed housing developments ~~which~~ *that* help meet the city's, county's, or city and county's share of the regional housing need for lower income households as identified in the housing element adopted by the legislative body and any amendments made to that element.

(b) This section is intended to neither enlarge nor diminish the existing authority of a city, county or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water services at retail or sewer services shall not invalidate any action or approval of a development project. The special districts which provide water services at retail or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

(c) As used in this section, "water services at retail" means supplying water directly to the end user or consumer of that water, and does not include sale by a water supplier to another water supplier for resale.

*(d) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is of vital statewide importance.*

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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